

BOARD OF APPEALS CASE NO. 5384	*	BEFORE THE
APPLICANT: 107 Edgewood Road LLC	*	ZONING HEARING EXAMINER
REQUEST: Modification of Condition No. 1	*	OF HARFORD COUNTY
in Case No. 2378, to increase number of	*	
residents from 24 to 36; 107 Edgewood	*	
Road, Edgewood	*	Hearing Advertised
	*	Aegis: 12/3/03 & 12/10/03
HEARING DATE: January 28, 2004	*	Record: 12/5/03 & 12/12/03

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicant, 107 Edgewood Road, LLC., is requesting modification of Condition No. 1 in Zoning Appeal Case 2378, as modified in Civil Action CA2635 (which was an appeal from Case 4088), to allow an increase from 24 residents to 36 residents in a B2 District.

The subject parcel is located at 107 Edgewood Road, Edgewood, Maryland 21040, and is more particularly identified on Tax Map 66, Grid Number 4A, Parcel 435. The property contains approximately 0.436 acres, and is located within the First Election District.

The zoning history of the subject parcel is summarized below:

1979 - Case 2378:

Presbury United Methodist Church, was granted a conditional use to operate a women's crisis center on the subject property, subject to six conditions. The facility was limited to a maximum of 24 female residents.

1991 - Case 4088:

The Applicant, Forward Step, Inc., was denied a variance to condition number 1 set forth in case number 2378 to allow male residents at the subject facility.

1992 - Civil Action No. CA2635:

The Circuit Court for Harford County reversed the Board of Appeals decision in Case No. 4088, granting the petitioner's request to amend Conditions 1 and 3 in Board of Appeals in Case No. 2378, to allow both male and female residents at the subject facility. The Circuit Court held that the Board had "erroneously applied a variance test...stating that "Section 267-9(l) (*sic*) of the Harford County Zoning Code contains the proper test for amending conditions imposed by the Board of Appeals."

Case No. 5384 - 107 Edgewood Road LLC

Stephen C. Dengler appeared and testified that he has been the executive director of the Phoenix Recovery Center, for the past two and one-half years. Phoenix Recovery Center currently operates a drug rehabilitation and treatment center at the subject site. Mr. Dengler is responsible for managing the sixteen employees who work at the facility. The minimum age for clients housed at the facility is eighteen years. Prior to a client's arrival, an initial assessment is conducted, which includes an intake, and history and physical. Immediately upon their arrival at the facility, patients are stabilized by the administration of detoxification medication. After detoxification is complete, the patients are transitioned into the program's treatment phase. The average length of a stay is 21 days, but patients sometimes stay up to 30 or 45 days. Mr. Dengler outlining the facility's treatment phase in great detail, describing the patients' daily routine, 24-hour per day supervision, and intensive group and individual counseling.

According to Mr. Dengler, Father Martin Ashley, in Havre de Grace, is the only other drug treatment facility in Harford County capable of providing the level of treatment available at the Phoenix Recovery Center. The witness stated that the requested expansion is needed due to the ever present substance abuse problem in Harford County. Because there are only two in-patient treatment centers in Harford County, there is a significant need for additional patient beds. Mr. Dengler stated that Harford County actually benefits by having a treatment facility located within the community where people needing such services live. The existing patients come primarily from Harford County; however, some come from Cecil County, northern Baltimore County, or Baltimore City.

The Phoenix Recovery Center is located in an area consisting predominately of small business uses. The facility fronts on Edgewood Road, which is a major thoroughfare. Due to the size of the lot, the building which houses the recovery center is actually located one-quarter mile from Edgewood Road. Mr. Dengler testified that the Applicant will not need to expand the existing exterior structure to accommodate the requested twelve additional beds. The building contains a sufficient number of kitchens and other facilities to accommodate a total of 36 residents. The requested increase in residents would necessitate the hiring of only one additional counselor.

Case No. 5384 - 107 Edgewood Road LLC

The witness also testified that the facility is served by public water and sewer. The building is inspected by the Harford County Fire Marshall once a year, and no violations have been issued with regard to the site. The witness also indicated that he has spoken with all adjacent property owners, none of whom have any opposition to the subject application. He stated that the adjoining property owners are generally supportive of both the facility, and its work.

The Applicants introduced two letters into evidence in support of their claim that additional bed space is needed in Harford County. The first letter (Applicant's Exhibit 5) is signed by Carol A. Deale, on behalf of the Harford County Mental Health and Addictions and Advisory Board. The second letter (Applicant's Exhibit 6) was signed by David A. Creed, director of Mann House. Mr. Dengler indicated that Mann House is a reputable halfway house for males in need of extended care following completion of inpatient treatment.

The witness further testified that he had reviewed the limitations, guides and standards set forth in Harford County Code Section 267-9I, and stated that in his opinion, the granting of the requested modification would comply with all requirements set forth in that code provision. Mr. Dengler stated that substance abuse causes a negative impact on all citizens of the community, and indicated that the need for inpatient treatment facilities will increase as drug treatment programs gain greater acceptance.

Robert Kinneberg appeared and testified that he has been working as a health care administrator for over twenty-three years. He has worked with hospitals in the field of health care management, and spent nine years as health care administrator at Father Martin Ashley. Mr. Kinneberg was admitted as an expert in the field of health care management.

The witness testified that he is familiar with the subject proposal, and that he works as a paid consultant, assisting Phoenix Recovery Center with long range planning. According to Mr. Kinneberg, addictions in Harford County cross all socio-economic lines. Harford County is one of the fastest growing communities in the country, and it currently has a significant need for additional inpatient treatment beds.

Case No. 5384 - 107 Edgewood Road LLC

According to the witness, young people between the ages of 16 and 35 to 40 years of age are now using more than one substance on a regular basis. This differs from historical patterns, because the number and variety of substances being abused is increasing.

Mr. Kinneberg testified that he was involved with the preparation of the Applicants' plan to add twelve additional beds to their treatment facility. He stated that it is important to increase the number of available beds in the community, because the only other drug treatment facility in Harford County usually operates at or near capacity. The witness further stated that it is important to have an in-county facility available, because costs are thereby decreased, and links to family members are more easily maintained during treatment. Finally, Mr. Kinneberg testified that in his opinion, granting the requested modification would have positive benefit for Harford County.

Mr. Anthony McClune, Chief, Current Planning Division for the Department of Planning and Zoning, appeared and testified on behalf of the Department, regarding the findings of fact and recommendations made by that agency. Mr. McClune indicated that the Department recommended approval of the requested modification in its January 16, 2004 Staff Report, subject to two conditions set forth therein. He stated that twelve beds could be added to the Phoenix Recovery Center without creating any adverse impact on adjoining properties. He further stated that the facility was designed to house 36 residents, and, that there is adequate parking at the subject location. The property is located along Edgewood Road, which is a main thoroughfare. The only residential uses in the area are located behind the property, and are screened from view by wooded areas.

Mr. McClune indicated that the Department had considered all provisions set forth in Section 267-9I of the Harford County Code in connection with the subject request. According to the witness, the Applicants can meet or exceed all standards set forth in the referenced code provision. The addition of twelve new beds would not necessitate the expansion of the physical structure and would, therefore, not be outwardly visible. The subject property is located in a predominantly commercial neighborhood, and will have no impact on any

Case No. 5384 - 107 Edgewood Road LLC

residential area. The witness further stated that the addition of twelve new beds to the facility would be consistent with the Harford County Land Use and Master Plan because it is better to expand an existing facility, than to increase the number of drug treatment facilities in the area. He also verified the Applicant's statement that the facility is serviced by public water and sewer, and would cause no adverse impact on County owned facilities.

No witnesses appeared in opposition to the requested variance.

CONCLUSION:

The Applicant, 107 Edgewood Road, LLC., is requesting a modification of Condition No. 1 established in Zoning Appeal Case Number 2378, as modified in Civil Action CA2635 (which was an appeal from Case Number 4088), to allow an increase from 24 residents to 36 residents in a B2 District.

Sections 267-52B and C of the Harford County Code provide:

- B. A special exception grant or approval shall be limited to the final site plan approved by the Board. Any substantial modification to the approved site plan shall require further Board approval.
- C. Extension of any use or activity permitted as a special exception shall require further Board approval.

Section 267-9I of the Harford County Code states:

Limitations, guides and standards. In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following general considerations. Notwithstanding any of the provisions of this Part 1, the Board shall not approve an application if it finds that the proposed building addition, extension of building or use, use or change of use would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. The Board may impose conditions or limitations on any approval, including the posting of performance guaranties, with regard to any of the following:

Case No. 5384 - 107 Edgewood Road LLC

- (1) The number of persons living or working in the immediate area.

The Hearing Examiner finds that the request would have no impact on persons living or working in the area of the subject property.

- (2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

The Hearing Examiner finds that the proposed expansion would not adversely affect traffic conditions on Edgewood Road. The existing facility is located approximately one-quarter mile back from the road. The property has adequate on-site parking, and the granting of the requested modification would necessitate the hiring of only one additional staff member.

- (3) The orderly growth of the neighborhood and community and the fiscal impact on the county.

The Hearing Examiner finds that the addition of twelve new treatment beds would have no impact on the growth of the neighborhood or the community, and no fiscal impact on the county.

- (4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

The requested modification would not create any additional odors, dust, gas, smoke, fumes, vibration, glare or noise at the subject location.

- (5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.

The proposed construction would have no impact on public facilities, or on the County's ability to supply such services.

- (6) The degree to which the development is consistent with generally

Case No. 5384 - 107 Edgewood Road LLC

accepted engineering and planning principles and practices.

The Hearing Examiner finds that the existing drug treatment facility provides a benefit to the community, and that there is a need for additional treatment beds in Harford County.

- (7) The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.

Not applicable to the request.

- (8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.

The Hearing Examiner accepts the testimony of the Department and Zoning that the existing facility causes no adverse impact on adjoining properties. The Hearing Examiner also accepts the Department's testimony that the addition of twelve beds to the subject facility would be consistent with the Harford County Land Use and Master Plan because it is better to expand an existing facility than to increase the number of drug treatment facilities.

- (9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.

Not applicable to the request.

- (10) The preservation of cultural and historic landmarks.

Not applicable to the request.

Case No. 5384 - 107 Edgewood Road LLC

Having found that the subject request meets or exceeds all requirements set forth in Section 267-9I of the Harford County Code, the Hearing Examiner recommends approval of the subject Application, subject to the following conditions:

1. That the Applicants obtain all necessary permits and inspections for the proposed construction.
2. That the maximum number of residents at the facility shall be limited to 36.

Date FEBRUARY 24, 2004

**Rebecca A. Bryant
Zoning Hearing Examiner**